



COTTONWOOD HEIGHTS BOARD OF ADJUSTMENT MEETING AGENDA

Notice is hereby given that the Cottonwood Heights Board of Adjustment will hold a **Work Session Meeting** (Room 124, City Council Work Room) beginning at **5:30 p.m.** and a **Business Meeting** (Room 5, Council Chambers) beginning at **6:00 p.m.** on **Thursday, September 14, 2017**, located at 2277 East Bengal Boulevard, Cottonwood Heights, Utah.

6:00 p.m. BUSINESS MEETING (Room 5)

1.0 WELCOME / ACKNOWLEDGEMENTS

2.0 ACTION ITEMS

2.1 (Project #BOA 17-005) Action on a request from Breen Homes for a variance from the flag lot setback requirements at 3507 E 8740 S

2.2 Approval of September 14, 2017 Minutes

(The Board of Adjustment will approve the minutes of the September 14th, 2017 meeting after the following process is met. The recorder will prepare the minutes and email them to each member of the Board. The members will have five days to review the minutes and provide any changes to the recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the Board is in agreement, at which time the minutes shall be deemed approved.)

3.0 ADJOURNMENT

On Friday, September 8 by 5:00 p.m., a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices, Cottonwood Heights, Utah. A copy of this notice was sent to the Salt Lake Tribune and Deseret News, newspapers of general circulation in the City by the Office of the City Recorder. The Agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>.

DATED THIS 8th DAY OF SEPTEMBER 2017

Paula Melgar, City Recorder

Members may participate in the meeting via telephonic communication. If a Member does participate via telephonic communication, the Member will be on speakerphone. The speakerphone will be amplified so that the other Members and all other persons present will be able to hear all discussions. In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify Paula Melgar, City Recorder, at (801)944-7021 at least 24 hours prior to the meeting. If you would like to submit written comments on any agenda item to be received by the Community and Economic Development Director, please do so no later than April 12th at 12:00 p.m. Comments can be emailed to bbernt@ch.utah.gov. Special accommodations for the hearing or visually impaired will be made upon a request to the office of the Cottonwood Heights City Recorder (801)944-7020. We would appreciate notification two working days prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711.

Board of Adjustment Staff Report
Meeting Date: September 14, 2017



**FILE NUMBER/
PROJECT NAME:** BOA-17-005

LOCATION: 3507 E 8740 S (Lot 10, Sutton Subdivision)

REQUEST: Setback Variance (west side yard, south front yard)

APPLICANT: Breen Homes

APPLICANT'S PROPOSAL

The applicant is requesting a variance from the flag-lot setback requirements in order to construct a single-family dwelling on the subject property. There is a fault line located on the property. The city's sensitive lands ordinance requires a minimum 20' setback from fault lines for the construction of any habitable building. Given the location of the fault line and the required 20' fault setback, the applicant is requesting a variance to reduce the minimum side-yard and front-yard setback from 20' to 5' in order to construct a single-family dwelling on the west portion of the property.



BACKGROUND

The subject property is lot 10 of the Sutton Subdivision, which was approved and recorded in 1976. The property is currently vacant, and has remained undeveloped since plat recordation. The proposed variance places a structure as far southwest on the property as possible. Due to the property's irregular shape and proximity to Wasatch Boulevard, the southwest portion of the property has been identified as the most viable buildable area.

Zoning Ordinance

The subject property is a flag lot in the R-1-8 zone. Flag lots are subject to stricter standards than other lots in the R-1-8 zone, as follows:

- Minimum setback (on all sides) – 20'
- Maximum building height – 26'

Sensitive Lands Ordinance

Due to the presence of a fault line on the subject property, certain provisions of the city's sensitive lands ordinance apply to any development on the subject property. The applicant has provided a previous study that identifies the approximate location of the fault line on the property, and will be required to complete a more thorough surface fault rupture study in accordance with Appendix B, Section 2.0 (Minimum Standards for Fault Studies) of the city's sensitive lands ordinance (chapter 19.72). A requirement of that fault study will be to recommend minimum building setbacks from each side of the fault line. In accordance with Table A-1 of the same ordinance section, in no case shall that setback be less than 20'.

Context

As can be seen in the context aerial map on page 1 of this staff report, a 5' building setback on the west side of the property has the potential to negatively impact homes on adjacent properties. To mitigate that potential impact, the applicant is proposing to construct a single-story residence with a 9' main floor and a shed-style roof that slopes up to the east. As a result, the vertical impact of the structure on the adjacent property owners will be reduced as much as possible.

Staff Analysis: Per chapter 19.92.070 "Powers and Duties of the Board," the board is able to impose additional requirements on the applicant that will mitigate any harmful effects of the variance or serve the purpose of the standard that is waived or modified. Staff recommends that the board impose a formal condition, with clarifying language, that the applicant limit the height and impact of the proposed home to the greatest extent possible.

VARIANCE CRITERIA

Chapter 19.92.070, "Powers and Duties of the Board," authorizes the board to provide relief from the literal enforcement of the zoning ordinance by allowing a variance from dimensional standards of the ordinance if the criteria for granting a variance are met. Ordinance 19.92.070 states that the board may only grant a variance if all of the following criteria are met:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the general plan and will not be contrary to the public interest, and;
5. The spirit of the zoning ordinance is observed and substantial justice is done.

The ordinance further states:

"In determining whether enforcement of the ordinance will cause an unreasonable hardship, the board may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances particular to the property, not from conditions which are general to the neighborhood. In determining whether or not enforcement of the ordinance would cause an unreasonable hardship, the board may not find an unreasonable hardship if the hardship is self-imposed or economic. In determining whether or not there are special circumstances attached to the property, the board may find that special circumstances exist only if special circumstances relate to the hardship complained of and deprive the property of the privileges granted to other properties in the same [zoning] district. The applicant shall bear the burden of proving that all the conditions justifying the variance have been met..."

Staff analysis: To approve the proposed variance, the board must find that the variance requests meets all five of the above criteria. The applicant's narrative is attached, which includes a response to each criterion.

MODEL MOTIONS

Approval

"I move that we approve project BOA-17-004, a request from Breen Homes, for variance to reduce front- and side-yard setbacks to 5' in order to construct a single-family dwelling at 3507 E 8740 S, subject to the following conditions, and based on the following findings:"

Suggested Conditions

- The applicant shall limit the structure to one story, with a 9' main floor and shed roof that slopes up from west to east, in accordance with the applicant's narrative;
- No permit shall be issued until a thorough fault rupture study has been completed and reviewed in accordance with chapter 19.72 of the zoning ordinance.

Suggested Findings

- The proposed variance request satisfies all variance criteria found in chapter 19.92.070 of the zoning ordinance.

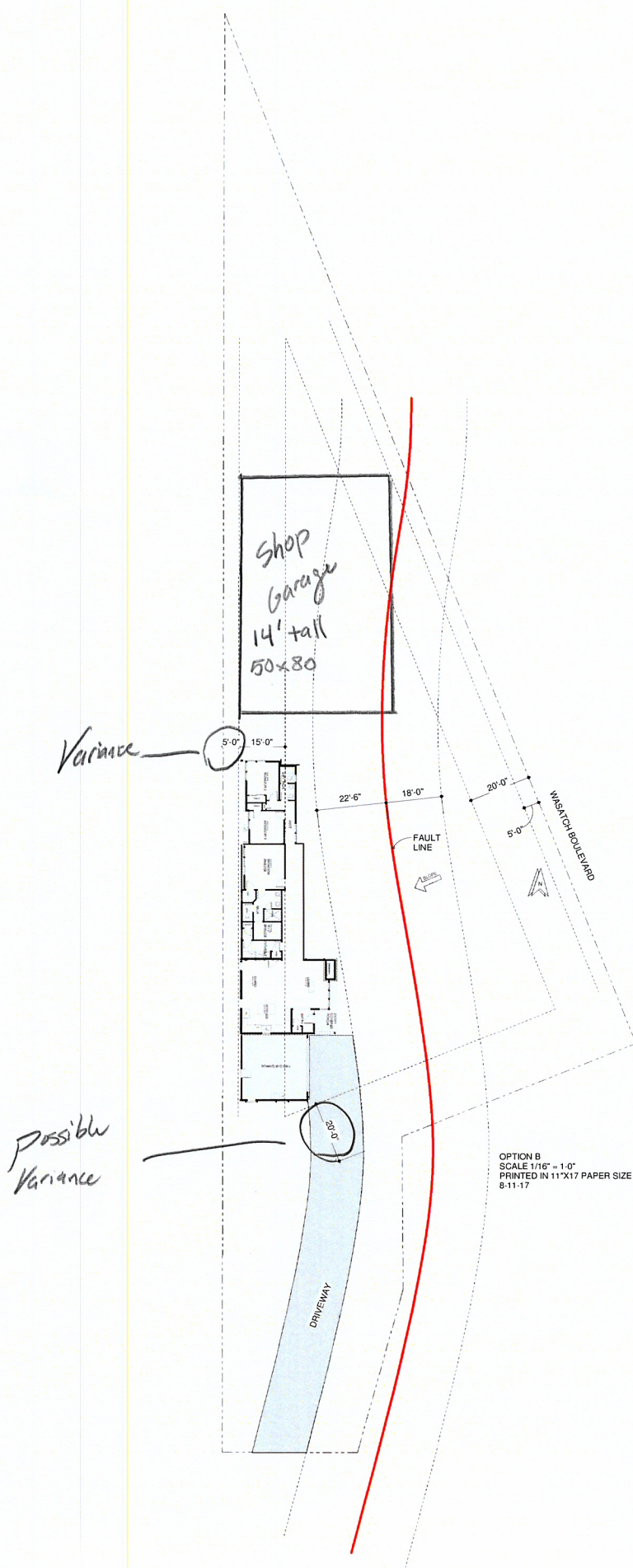
Denial

"I move that we deny project BOA-17-004, a request from Breen Homes, for a variance to reduce front- and side-yard setback to 5' in order to construct a single-family dwelling at 3507 E 8740 S, based on the following findings:

- List findings for denial

Attachments:

- Preliminary Site Plan
- Applicant's Narrative



OPTION B
SCALE 1/16" = 1'-0"
PRINTED IN 11"x17" PAPER SIZE
8-11-17



Breen Homes

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BreenHomes@gmail.com

801-809-3516

S Corporation

Auto Owners Insurance Policy # 57612322

Tax ID # 45-3006739

Contractor License # 8077416-5501

Project Description:

R-1-8 Zoned site 0.70 acres located at 3507 E 8740 S, Cottonwood Heights. The site currently has 0 structures on site and is 1 empty "flag" lot. We are seeking to improve the lot and build one single family house on the site. The site has a fault line that has been located by Gordon Geotechnical that creates a hardship on the land and forces the buildable area to a tight and VERY unorthodox envelope.

Request for Special Exception:

We are requesting a Special Exception for the standard "20 foot" setbacks from all property lines. Specifically we are asking for a 5 foot side yard setback on the West property line and South property line. (Variance from code 19.26.060)

Asking the West property line setback be changed to 5 feet from the property line as the CCR's of the neighborhood require a minimum of 1700sqft and a 2 car attached garage for this development. In order to make this lot "buildable" we would need to minimize the West side and South Side yard setback to 5 feet. This variance was requested and given for the lot directly South East (28011520170000)

Last, we plan to build an accessory shop building that would gap over the fault line itself. The shop will not be habitable space and will be used for personal hobby and storage.

Impact:

We do realize this will impact the existing home to the west. This existing home shares their rear property line with our property therefore would remain at least 20 feet between their residence and the property line. Currently a 6' fence is installed to privatize their back yard. Further, we plan to build a single story residence with a 9' tall main floor with a "Shed" style slope up to the east. This will keep the wall face on the West side of our project to a minimum further minimizing the impact of the neighbors. We are open to planting as well if that would help.

Variance Criteria:

- 1) Enforcement of the 20' setback on all 4 sides in combined with the fault line located would does not allow a building envelope that fits a designed home on what have been legally developed as a single family residence.
- 2) This property has a fault line that sets itself apart and create special circumstances.
- 3) Granting the variance allows a home and tax paying resident in Cottonwood Heights instead of an empty over-grown lot full of dry weeds directly off Wasatch Blvd that become a fire hazard to a cigarette butt.
- 4) The variance with a buildable project that we are presenting (single family, single story) home does not affect the general plan or go against public interest.
- 5) The spirit of zoning to keep this lot a single family lot and open area even though the land is 1.70 acres and only zoned at R-1-8. This lot remains a home that fits within the neighborhood and is not subdivided into multiple pieces, condos, towns, or multifamily.